

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Carel J.L. Van Driel
	:	
For	:	COMMUNICATIONS NETWORK USING DIFFERENT TRANSMISSION PROPERTIES
	:	
	:	
Serial No.:	:	10/780,473
	:	
Filed	:	February 17, 2004
	:	
Art Unit	:	2616
	:	
Examiner	:	Raj K. Jain
	:	
Att. Docket	:	PHN16-613A
	:	
Confirmation No.	:	1391

**PETITION UNDER 37 C.F.R. §1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE COMMUNICATION**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition is submitted in response to the Decision on Petition mailed April 2, 2007. A copy of the Decision is attached as Exhibit E. The Decision is in response to an earlier Petition filed January 3, 2007. The earlier Petition was submitted in response to a Notice of Abandonment mailed on October 12, 2006. A copy of the Notice is attached as Exhibit A. According to the Notice, U.S.

Patent Application No. 10/780,473 was abandoned for failure to timely respond to the office letter of August 3, 2006, within the statutory period of six months from its mailing date.

Applicant respectfully submits that a response to the office letter was facsimile transmitted to the USPTO on September 5, 2006, with a Certificate of Transmission/Mailing. Please see Exhibit B attached herewith.

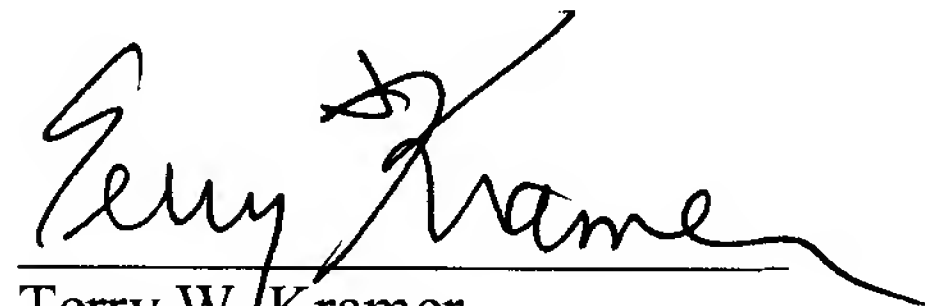
Enclosed herewith is a Declaration executed by Moira Anderson regarding the same. Please see Exhibit C. This Declaration establishes that Ms. Anderson has personal knowledge of the transmission in question.

Applicant further submits that an acknowledgement of Applicant's response, as facsimile transmitted to the USPTO, was received by Applicant's representative. According to the USPTO Auto-Reply Facsimile Transmission, Applicant's response was received on September 5, 2006. Please see Exhibit D attached herewith.

A diligent and sincere effort is made to clearly set out the facts and circumstances surrounding this matter. It is firmly believed that a sufficient showing is made for an immediate allowance of this Petition, as all elements of 37 C.F.R. §1.8(b) have been satisfied in full. Further, the issues raised in the Decision on Petition mailed April 2, 2007, have been fully addressed herein. It is respectfully requested that the response that was facsimile transmitted to the U.S. Patent and Trademark Office on September 5, 2006, be considered timely received, entered into the record, and the Notice of Abandonment be withdrawn.

It is believed that no fee is due with this Petition. Commissioner however is authorized to charge any fees, if applicable, associated with the application to deposit account number 14-1270.

Respectfully submitted,
KRAMER & AMADO, P.C.


Terry W. Kramer
Registration No.: 41,541

Date: May 16, 2007

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Enclosures

Exhibit A: Copy of the Notice of Abandonment mailed October 12, 2006
Exhibit B: Copy of Applicant's response facsimile transmitted to the USPTO on September 5, 2006
Exhibit C: Declaration of Moira Anderson
Exhibit D: Copy of the acknowledged receipt of Applicant's response according to the USPTO Auto-Reply Facsimile Transmission
Exhibit E: Decision on Petition mailed April 2, 2007

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,473	02/17/2004	Carel J.L. Van Driel	PHN 16-613A	1391
24737	7590	10/12/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			JADN, RAJ K	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

54

Notice of Abandonment	Application No.	Applicant(s)	
	10/780,473	VAN DRIEL, CAREL J.L.	
	Examiner	Art Unit	
	Raj K. Jain	2616	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 03 August 2006.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.


3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:


 CHI PHAM
 SUPERVISORY PATENT EXAMINER
 12/10/06

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

EXHIBIT B

***** -COMM. JOURNAL- ***** DATE SEP-05-2006 ***** TIME 15:58 *****

MODE = MEMORY TRANSMISSION

START=SEP-05 15:54 END=SEP-05 15:58

FILE NO.=269

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
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-KRAMER & AMADO, P.C. -

- ***** -

703 5199882- *****



KRAMER | AMADO_{PC}

PATENT RESEARCH SERVICES
INTELLECTUAL PROPERTY LAW

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Fax Memo

TO: Mail Stop Appeal Brief Patents
USPTO

FAX NO.: (571) 273-8300

FROM: Terry W. Kramer
KRAMER & AMADO, P.C.

DATE: September 5, 2006

SUBJECT: U.S. Patent Application
Title: COMMUNICATIONS NETWORK USING DIFFERENT
TRANSMISSION PROPERTIES
Serial No.: 10/780,473
Attorney Docket No.: PHN16-613A

PAGES: INCLUDING COVER PAGE (16)

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Message: Submitted herewith are the following:

- Transmittal (1 page)
- Supplemental Appeal Brief (14 pages)

In the event that the fees submitted herewith are insufficient, please charge any remaining balance, or credit any overpayment, to our Deposit Account Number 50-0578.



KRAMER | AMADO^{PC}

PATENT RESEARCH SERVICES
INTELLECTUAL PROPERTY LAW

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/780,473	
	Filing Date	February 17, 2004	
	First Named Inventor	Carel J.L. Van Driel	
	Art Unit	2616	
	Examiner Name	Jain, Raj K.	
Total Number of Pages in This Submission	15	Attorney Docket Number	PHN16-613A

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <p style="text-align: center;">Supplemental Appeal Brief</p>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Kramer & Amado, P.C.		
Signature	<i>Terry W. Kramer</i>		
Printed name	Terry W. Kramer		
Date	September 5, 2005	Reg. No.	41,541

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	<i>Maira Anderson</i>		
Typed or printed name	Maira Anderson	Date	9-5-06

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.